



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,000	12/05/2003	John M. Guynn	15257.3.2	9102

7590 07/20/2006

John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/729,000	GUYNN, JOHN M.	
	Examiner	Art Unit	
	Andrea M. Valenti	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29, 27, 1-3, 5-8, 20-26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,647,378 to Farnum.

Regarding Claim 29. Farnum teaches a restraint device for use in restraining a child in a desired position comprising: a flexible corset or harness comprising one strap sized and configured so as to wrap around at least a portion of a child's body (Farnum #12); at least one fastener connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body (Farnum #16 a and 16b); a handle (Farnum Col. 2 line 8-9) configured to be gripped by a person's hand, attached to the corset or harness in a manner so that the handle is positioned next to a the child's body or clothing adjacent to a central plane of the child's body that passes through either the child's spine and sternum or the child's

Art Unit: 3643

shoulders (Farnum Fig. 1) and at least partially between the child's head and buttocks so that a hand gripping the handle remains close to the child's body and lies on a central balancing plane of the child's body when the restraint device is in used and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body; and at least one of a friction enhancing material disposed on at least a portion of an inner surface of the strap so as to decrease the tendency of the restraint device to move (Farnum Col. 1 line 58-62).

The device of Farnum is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different girth (Farnum Col. 2 line 3-4). Given another interpretation of the claim it could be viewed that Farnum does not explicitly teach the restraint device being worn by a child. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Farnum at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Regarding Claims 1 and 20-26, Farnum teaches a device comprising a pair of opposing handles (Farnum Fig. 1 and Col. 2 line 8-9), each configured to be gripped (functional language which means the apparatus must merely be capable of performing that function, the examiner has underlined the additional functional language that appears in the claims) by a person's hands; and attachment means (Farnum #16a and 16b) for attaching the pair of opposing handles adjacent to a child's body on opposite sides of a child's body so as to lie on a central balancing plane during use; the

Art Unit: 3643

attachment means being configured so that at least one handle lies next to a child's body or clothing while the restraint device is worn so that a hand gripping the handle remains close to the child's body during use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the hand and the child's body; the handles being sized so as to allow insertion therein of at least three fingers of a person using the device to hold or restrain a child; the handles extending laterally away (Farnum fig. 1) from a surface of the attachment means so as to provide an opening into which a person can readily insert fingers without spreading the handles apart from the attachment means; handle being permanently attached to the attachment means.

Farnum teaches the restraint is designed to be used when bathing (Farnum Col. 2 line 31-32).

The device of Farnum is for guiding an individual which inherently could include children and that the device is designed to accommodate individuals of different girth (Farnum Col. 2 line 3-4). Given another interpretation of the claim it could be viewed that Farnum does not explicitly teach the restraint device being worn by a child. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Farnum at the time of the invention since the modification is merely a change in size to accommodate a child to provide proper safety/rescue/support measures [*In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955)].

Art Unit: 3643

Regarding Claim 2, Farnum as modified teaches the handles comprising at least one loop of fabric (Farnum Col. 2 line 10) having an opening that accommodates insertion of four fingers therethrough while gripping the loop.

Regarding Claim 3, Farnum as modified teaches the attachment means comprises a single sheet or strap of flexible material configured so as to wrap at least partially around a child's body (Farnum #12).

Regarding Claims 5 and 6, Farnum as modified teaches the attachment means comprises one or more hook and loop fastening devices configured so as to releasably attach the attachment means to a child's body (Farnum #16a and 16b).

Regarding Claim 7, Farnum as modified teaches the attachment means configured (merely capable of) and handles positioned relative to the attachment means so as to position one of the handles at or near the child's spine and the other of the handles at or near the child's sternum (Farnum Fig. 2 left side is **near** the spine and #38 right side is **near** the sternum since near merely means in the vicinity, close by, in the neighborhood; and handle in the middle is near the spine).

Regarding Claim 8, Farnum as modified teaches the attachment means configured and handles positioned relative to the attachment means so as to position the handles so that both lie on a central balancing plane that passes through a child's spine and sternum or a central balancing plant that passes through a child' left and right shoulder (Farnum Fig. 1).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,647,378 to Farnum in view of U.S. Patent No. 1,310,958 to O'Conner.

Regarding Claim 27, Farnum as modified teaches a pair of straps permanently attached to the harness (Farnum Fig. 1) and do to the broad nature of the claim languages it can be interpreted that the permanent handles of Farnum may be selectively connect and unconnected and that form a loop when selectively connected (Farnum is stitched which is a permanent connection, however, this connection may be, i.e. capable of, selectively unconnected by cutting the stitching, one may cut the stitching if the handle needs to be replaced for one reason or another). Farnum is silent on explicitly teaching means for releasable and reconnectable attachment means for selectively connecting and unconnecting the pair of cooperating straps so as to selectively form and unform the loop. However, O'Conner teaches a restraint device with a strap and handles that have a releasable and reconnectable attachment means (O'Conner #18 and buckle). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Farnum with the teachings of O'Conner at the time of the invention to attach a child to a crib or chair as taught by O'Conner (O'Conner page 1 line 75 to 79).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,647,378 to Farnum in view of U.S. Patent No. 6,073,280 to Farnum.

Regarding Claim 4, Farnum '378 as modified is silent on the attachment means comprising a plurality of straps configured so as to wrap at least partially around the

Art Unit: 3643

child's torso or limbs. However, Farnum '280 teaches a plurality of straps (Farnum '280 Fig. 2 #19, 33, 18, 54). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Farnum'378 with the teachings of Farnum '280 at the time of the invention since the modification is merely duplicating a part for a multiple effect performing the same intended function of a restraint device modified for the advantage of being able to grip the device in more locations.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,647,378 to Farnum in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claims 9 and 28, Farnum as modified is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child's skull region. However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Farnum with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

Claims 10-13, 16, 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,073,280 to Farnum in view of U.S. Patent No. 6,122,778 to Cohen

Regarding Claims 10, 11, 19, Farnum teaches a restraint device for use in holding or restraining a child in a desired position and in a balanced fashion with a single hand of a person desiring to restrain the child; a flexible corset or harness sized and configured so as to wrap around at least a portion of a child's body (Farnum Col. 2 line 1-2), wherein the corset or harness comprises a plurality of flexible straps (Farnum Fig. 2 #19, 33, 54, 18) that are laterally spaced apart that wrap at least partially around the child's torso; at least one fastening device (Farnum #50 and 52) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; a pair of opposite handles (Farnum #32 and 16 and #40, 60, 66) permanently attached to the corset and positioned next to attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent (the term adjacent can be interpreted as nearby, next to, bordering) to the spine, sternum, stomach or chest of the child's body when the restraint device is in use so that a hand gripping the handle remains close to the child's body when the present device is in use; the handles are configured to be gripped by a person's hand.

Farnum is silent on the corset exposes at least a portion of the child's body between the flexible straps so as to permit washing of the exposed portion of the child's body between the flexible straps. However, Cohen teaches a restraint device that has a

Art Unit: 3643

corset that has internal padding that is removed for bathing purposes (Cohen Fig. 8 and Col. 2 line 48-50 and Col. 7 line 52). It would have been obvious to one of ordinary skill in the art to modify the teachings of Farnum with the teachings of Cohen at the time of the invention since the modification is merely the elimination of the undergarment element i.e. the elimination of an element and its function [*In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975)] when padding and friction is not desired as taught by Cohen or for us in warm conditions the removal of the pad prevents over heating.

Regarding Claim 12, Farnum as modified teaches the handle inherently having sufficient friction that it can be reliably gripped without significant slippage when contacted with soapy water (Farnum Col. 2 line 17).

Regarding Claim 13, Farnum as modified teaches the corset or harness inherently comprising at least one of a fabric, plastic, elastomer, metal or composite material (Farnum Col. 1 line 54-57).

Regarding Claim 16, Farnum as modified teaches the corset or harness further comprising one or more flexible straps sized and configured so as to wrap around at least one of a child's shoulders or legs (Cohen Fig. 8 #40 and 54).

Regarding Claim 18, Farnum as modified teaches the fastening device comprises at least one of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Farnum #50 and 52).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,073,280 to Farnum and U.S. Patent No. 6,122,778 to Cohen as applied to claim 10 above, and further in view of U.S. Patent No. 5,007,413 to Thune.

Regarding Claim 17, Farnum as modified is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use that engages at least a portion of a child's skull region. However, Thune teaches a head restraint system (Thune Fig. 2 #11, 12) comprising a concave region configured to receive at least a portion of the child's skull in order for the head restraint system to securely restrain that is configured to attach to a child's head and restrain the child's head in a desired position. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Farnum with the teachings of Thune at the time of the invention for the advantage of immobilizing the head in a first aid response as taught by Thune (Thune abstract).

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 16-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

Art Unit: 3643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrea M. Valenti
Primary Examiner
Art Unit 3643

18 July 2006